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THE CODE OF MOSES AND THE CODE OF HAMMURABI. II.⁶

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ONE of the most interesting features of the Babylonian code is that some of its laws are either the same as, or closely resemble, laws in Exodus, Deuteronomy, and Leviticus. For the sake of comparison we place such laws side by side :

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| Exod. 21 : 2. If thou buy a Hebrew servant, six years he shall serve; and in the seventh year he shall go out free for nothing. | Hamm., 117. If a debt overtakes a man, and he sells his wife, son, or daughter, or gives them over to slavery, three years in the house of their buyer or master shall they serve; in the fourth year he shall give them freedom. |
| Exod. 21 : 15. And he that smiteth his father, or his mother, shall be surely put to death. | Hamm., 195. If a son beats his father, one shall cut off his hand. |
| Exod. 21 : 16. And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death. | Hamm., 14. If anyone steals the son of another, so shall he be put to death. |
| Exod. 21 : 18, 19. And if men contend, and one smiteth the other with a stone, or with his fist, and he die not, but keep his bed; if he rise again and walk abroad upon his staff, then shall he that smote him be quit; only he shall pay for the loss of his time, and shall cause him to be thoroughly healed. | Hamm., 206. If anyone in a quarrel beats another and gives him a wound, then shall this man swear, "I have not beaten him intentionally," and he shall pay the physician. |
| Exod. 21 : 26. And if a man smite the eye of his servant, or the eye of his maid, and destroy it, he shall let him go free for his eye's sake. | Hamm., 199. If anyone destroys the eye or breaks the bone of anybody's slave, he shall pay the half of his price. |

⁶ Completed from the BIBLICAL WORLD for March, 1904, pp. 188-93.

Exod. 21:28. And if an ox gore a man or a woman that they die, the ox shall be surely stoned, and his flesh shall not be eaten.

Exod. 21:29, 30. But if the ox were wont to gore in time past, and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman, the ox shall be stoned, and his owner also shall be put to death. If there be laid on him a ransom, then he shall give for the redemption of his life whatsoever is laid upon him.

Exod. 21:32. If the ox gore a man servant or a maid servant, he shall give unto their master thirty shekels of silver, and the ox shall be stoned.

Exod. 22:2. If the thief be found breaking in, and be smitten that he die, there shall be no blood-guiltiness for him.

Exod. 22:3, 4. If the sun be risen upon him, there shall be blood-guiltiness for him: he should make restitution; if he have nothing, then he shall be sold for his theft. But if the theft be found in his hand alive, whether it be ox or ass or sheep, he shall pay double.

Exod. 22:5. If a man shall cause a field or vineyard to be eaten, and shall let his beast loose, and it feed in another man's field, of the best of his own field, and of the best of his own vineyard, shall he make restitution.

Hamm., 250. If an ox in going along the street strikes and kills any person, this shall afford no ground for legal measures.

Hamm., 251. If the ox of anyone is dangerous, and one has pointed out to the owner the danger, but he has not blunted its horns or penned it up, then, if this ox strikes a man and kills him, the owner shall pay a half mina of silver.

Hamm., 252. If the ox kill the slave of someone, then shall its owner pay one-third of a mina of silver.

Hamm., 22. If one commit robbery and is caught, he shall be put to death.

Hamm., 8. If anyone steals an ox, a sheep, an ass, a pig, or a ship, and it belongs to the temple or court, he shall pay thirtyfold. If it belongs to a noble, he shall pay tenfold. If the thief has nothing to give, he shall be killed.

Hamm., 57. If a shepherd lets his sheep feed on the green corn, has not come to an agreement with the owner of the field, and without consent of the owner of the field has made the sheep feed off the field, the owner shall reap his fields, and the shepherd, who without consent of the owner of the field, has let his sheep feed off the field, shall give over and above twenty gur of corn per gan to the owner of the field.

Exod. 22:7, 8. If a man shall deliver unto his neighbor money or stuff to keep, and it be stolen out of the man's house, if the thief be found, he shall pay double. If the thief be not found, then the master of the house shall come near unto God, to see whether he have not put his hand unto his neighbor's goods.

Exod. 22:9. For every matter of trespass, whether it be for ox, for ass, for sheep, for raiment, or for any manner of lost thing, whereof one saith, "This is it," the cause of both parties shall come before God; he whom God shall condemn shall pay double unto his neighbor.

Exod. 22:10, 11. If a man deliver unto his neighbor an ass, or an ox, or a sheep, or any beast to keep, and it die or be hurt, or driven away, no man seeing it, the oath of the Lord shall be between them both, whether he hath not put his hand unto his neighbor's goods; and the owner thereof shall accept it, and he shall not make restitution.

Hamm., 125. When anyone gives his property on deposit, and then, through burglary or theft, his possession, together with the possession of the owner of the house, is lost, the owner of the house who is careless shall compensate the depositor all which was given him on deposit and which he has lost. But the owner of the house shall seek his lost possessions and take them from the thief.

Hamm., 9. When a man who has lost something sees it in the possession of another, if the one, with whom the property is seen, says, "A seller has sold it to me, before witnesses I paid for it," and if the owner of the lost goods says, "I will bring witnesses who know my lost property," then shall the buyer bring the seller who has sold it to him and the witnesses before whom he has bought it, and the owner of the lost property shall bring the witnesses acquainted with the lost property. The judge shall take their depositions; the witnesses before whom the price has been paid, and the witnesses familiar with the lost property shall declare before God what they know. If the seller is a thief, he shall be killed. The owner of the lost goods shall receive it; the buyer shall receive from the house of the seller the money which he has paid.

Hamm., 266. When in a sheepfold a stroke of God takes place, or a lion devours something, then shall the shepherd before God declare his innocence, and the accident in the stall shall the owner of the sheepfold remove from him.

Exod. 22:12. But if it be stolen from him, he shall make restitution unto the owner thereof.

Exod. 22:13. If it be torn in pieces, let him bring it for a witness; he shall not make good that which was torn.

Exod. 22:26. If thou at all take thy neighbor's garment to pledge, thou shalt restore it unto him by that the sun goeth down.

Deut. 16:19. Thou shalt not wrest judgment; thou shalt not respect persons; neither shalt thou take a gift; for a gift doth blind the eyes of the wise, and pervert the words of the righteous.

Deut. 19:16-18. If an unrighteous witness rise up against any man to testify against him of wrong-doing, then both the men, before whom the controversy is, shall stand before the Lord, before the priests and the judges which shall be in those days; and the judges shall make diligent inquisition; and, behold, if the witness be a false witness, and hath testified falsely against his brother, then shall ye do unto him as he had thought to do unto his brother: so shalt thou put away the evil from the midst of thee.

Deut. 19:21. And thine eye shall not pity; life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot.

Hamm., 267. If a shepherd is careless and causes a loss in the sheepfold, then shall the shepherd make good the fault of the loss, which he has caused in the sheepfold; cattle or sheep he shall compensate and give to the owner.

Hamm., 244. If anyone rents an ox or an ass, and in the field a lion kills it, the loss is for its owner.

Hamm., 241. If anyone takes an ox as a pledge for debt, he shall pay one-third mina of silver.

Hamm., 5. When a judge pronounces judgment, gives a decision, and writes it out; when later his decision shows itself to be erroneous, and that judge, in the judgment which he has pronounced, is proved to be the cause of the error, then shall he pay twelvefold the penalty which was in that judgment and one shall expel him publicly from the judgment-seat, and he shall not return in order to sit again with a judge in a case.

Hamm., 127, 131, 132. If anyone points the finger at a priestess or at the wife of someone, and cannot justify it, then shall they bring this man before the judge and brand his forehead. If a husband accuses his wife, but if she is not caught in bed with another, so shall she before God swear and return to her house. If, on account of another man, the finger is pointed at the wife of someone, without her being caught in bed with another, so shall she for her husband jump into the river.

Hamm., 196, 197, 200. If anyone beats out the eye of a man, so shall one beat out his eye. If he breaks the bone of a man, so shall one break his bone. If one makes the tooth of a man of equal rank fall out, so shall man make his tooth fall out.

Deut. 22:22. If a man be found lying with a woman married to a husband, then they shall both of them die, the man that lay with the woman, and the woman: so shalt thou put away the evil from Israel.

Deut. 22:25, 26. But if the man find the damsel that is betrothed in the field, and the man force her, and lie with her, then the man only that lay with her shall die; but unto the damsel thou shalt do nothing; there is in the damsel no sin worthy of death.

Deut. 23:15, 16. Thou shalt not deliver unto his master a servant which is escaped from his master unto thee; he shall dwell with thee in the midst of thee, in the place which he shall choose within one of thy gates, where it liketh him best; thou shalt not oppress him.

Deut. 24:1. When a man taketh a wife, and marieth her, then it shall be, if she find no favor in his eyes, because he hath found some unseemly thing in her, that he shall write her a bill of divorcement, and give it in her hand, and send her out of his house.

Lev. 25:18. And he that smiteth a beast mortally shall surely be put to death.

Hamm., 129. When the wife of anyone is caught with another in bed, so shall one bind them and throw them into the water, unless the husband of the wife shall pardon her, and the king pardon his subject.

Hamm., 130. If anyone overpowers the wife of someone who has not known a man, and who dwells in the house of her father, if he sleeps with her and is caught, then shall this man be killed; the wife shall be innocent.

Hamm., 16. If anyone receives into his house a runaway male slave or female slave belonging to the court or to a man, and if he does not produce him or her at the public call of the chamberlain, so shall the master of the house be put to death.

Hamm., 137. When anyone decides to put away his concubine, who has borne him children, or his wife who has borne him children, to that woman he shall return her her dowry, and shall give her a share in field, garden, and goods, and she shall bring up her children. When her children are reared, a portion of all that was given to her children, corresponding to the portion of a son, shall be given to her, and she shall marry the husband of her choice.

Hamm., 245. If a man hires an ox and through neglect or by blows has killed it, so shall he, ox for ox, to the owner of the ox give.

The above comparison between the Pentateuchal codes and the Babylonian codes shows how close the resemblance is between them. How shall we account for this? Is it merely accidental, without any historic relation? Did Israel and Babylon, each independent of the other, develop the laws which are so similar? This seems hardly possible, for the likeness rather betrays a dependence of one set of laws on the other. Everyone will con-

cede the priority of the Hammurabi laws, for they were inscribed on the slab nearly a thousand years before Moses was born. It is possible that Abraham, a contemporary and subject of Hammurabi, and living in Ur near Babylon, might have known these laws and carried them with him to Palestine. On the other hand, Abraham may have found these laws in Palestine when he entered the Promised Land, which was then, no doubt, a part of Hammurabi's empire, and so would have the same laws as Babylon. Babylonian culture strongly permeated Palestine from 3800 B. C. down to 1400 B. C. The Hebrews for two hundred and fifteen years before their entrance into Egypt would be in close touch with this culture, and so would know these laws of Hammurabi. During centuries of residence in Goshen, they may have been used in dispensing justice. At the exodus, Moses and the elders may have made these same Babylonian laws the basis of their statutes and decisions, as recorded in *Exod.* 18: 16. In process of time, when the laws were written and codified in *Exodus*, *Deuteronomy*, and *Leviticus*, it is natural that some of them should be the same as the Babylonian code with which Israel was so long familiar.

But the view that will probably commend itself most to scholars is that Israel found these laws in Palestine after the desert wandering. The Amarna tablets and the explorations of Professor Sellin have shown that Babylonian culture was deeply rooted in Palestine before the Israelites entered. It is entirely possible that Hammurabi's code was familiar to the communities inhabiting Canaan, and may have been the very laws used by them in settling disputes and punishing offenders. When the nomad Israelites entered the Promised Land, these laws may have been taken over by the Hebrew dispensers of justice. As time went on, the laws would no doubt be changed, and many new ones would be made. It is now generally agreed that the Israelites appropriated the culture and civilization of the Canaanites among whom they settled. After centuries of slavery in Egypt and forty years of life in the desert, the civilization of Israel was probably not very high. Among the nomads today in Syria and Palestine it is found that about one in two hundred can read and

write. It was certainly a great blessing to the Hebrew tribes that they took possession of a land where such a high culture reigned and which must have mightily influenced them. A historical parallel can be found in the case of the Babylonians who as nomads from Arabia settled about 5000 B. C. in the lower Tigris and Euphrates, where the old Sumerian culture flourished. These Babylonians appropriated all that was best in the Sumerian civilization, and became in time masters of the land. So the Hebrew nomads about 1250 B. C. crossed the Jordan and took over the Babylonian culture of the Canaanites, and finally became rulers of the land. Some such thing will probably best explain the many resemblances in form and subject-matter existing in the Pentateuchal codes and in the code of Hammurabi.